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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1969

No. 194

VETERANS OF THE ABRAHAM LINCOLN BRIGADE, et al.,
Petitioners,

v.

ATTORNEY GENERAL OF THE UNITED STATES, et al.,
Respondents.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the District of Columbia Circuit

REPLY FOR PETITIONERS

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REPLY FOR PETITIONERS

In our petition we pointed out (pp. 9-10), that the remand of this case to the Attorney General would serve no legitimate purpose because: (a) The Attorney General does not have the power to declare unconstitutional the Executive Order authorizing him to list organizations, and (b) In the absence of a statement of the issues to be resolved or the procedure for resolving them, the remand would at best be a mere exercise in futility.

The government responds (Opp. 6) that, nonetheless, the constitutional issues posed in our petition should not be

heard because it is conceivable that on remand the case may be decided favorably to petitioners and thus become moot. But in the absence of any guidance as to what the remand is about, we fail to see how this result can be achieved.[1] The government acknowledges that there are no regulations governing the remand, and suggests, instead, that the remand be governed by the Attorney General's "informal procedures for delisting" (Opp. p. 6, fn. 2). But the only procedure for delisting, formal or informal, is the dubious privilege petitioners have of writing to the Attorney General and requesting that he delist the organization. Petitioners' previous request that the Attorney General delist the organization was denied without comment (R. 3, 9). There is nothing in the government's opposition to indicate that another request will be treated any differently.

Of course, the Attorney General can moot the case by simply delisting the organization. If that is his intention, the appropriate procedure would be for him to take that action and then notify the Court. That is the procedure that was followed in *Association of Lithuanian Workers v. Brownell*, 355 U.S. 23. But, since it is plain from the opposition that the Attorney General has no intention of taking such action, the only purpose a remand could serve would be to delay consideration of the important issues presented in the petition.

Respectfully submitted,

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[1] The government does not even agree that the case should be remanded to the Attorney General. It argues (fn. 2, p. 6) that all that the Court of Appeals decided is that the district court should decide whether or not the case should be remanded. The government fails to state, and petitioners are unaware of, the factors to be evaluated by the district court in making such determination.